About chrisfreeland
Chris Freeland is the Director of Open Libraries at Internet Archive. View all posts by chrisfreeland →

← Stand with Internet Archive as we fight for the
digital rights of all libraries

How Can You Help The Internet Archive? (A
Repost) →

The Fight Continues
Posted on March 25, 2023 by chrisfreeland

Today’s lower court decision in Hachette v. Internet Archive is a blow to all libraries and the commu-nities we serve. This decision impacts libraries across the US who rely on controlled digital lending to connect their patrons with books online. It hurts authors by saying that unfair licensing models are the only way their books can be read online. And it holds back access to information in the digital age, harming all readers, everywhere.

But it’s not over—we will keep fighting for the traditional right of libraries to own, lend, and pre-serve books. We will be appealing the judgment and encourage everyone to come together as a com-munity to support libraries against this attack by corporate publishers.

We will continue our work as a library. This case does not challenge many of the services we provide with digitized books including interlibrary loan, citation linking, access for the print-disabled, text and data mining, purchasing ebooks, and ongoing donation and preservation of books.

Statement from Internet Archive founder, Brewster Kahle:
“Libraries are more than the customer service departments for corporate database products. For democracy to thrive at global scale, libraries must be able to sustain their historic role in society— owning, preserving, and lending books.

This ruling is a blow for libraries, readers, and authors and we plan to appeal it.”

Take Action!

Stand up for libraries
Stand up for the digital rights of all libraries! Join the Battle for Libraries: https://www.battleforli-braries.com/

Support the Internet Archive
Support the Internet Archive to continue fighting for libraries in court!

Stay connected
Sign up for the Empowering Libraries newsletter for ongoing updates about the lawsuit and our library.

Posted in Announcements, Books Archive, Lending Books, News, Open Library | Tagged CDL, controlled digital lending, lawsuit | 71 Replies

71 thoughts on “The Fight Continues”

Here’s the truth, the whole truth and nothing but the truth that I’m gonna tell Hachette that I warn everyone No infringements of any kind is intended. So once again The Internet Archive
is not guilty or suspicious. That’s why I always stand with the Internet Archive. Not Hachette. I’m sorry for the inconvenience so I can’t research or preserve anything without the Internet Archive. I can only stick with the Internet Archive. I get a help from the Internet Archive. and
I also always stand up for the digital rights of all libraries of the world! although I didn’t have money to donate yet. But I add everything to my favorites. By the way tell Hachette that I’ve been waiting for a Warner Bros. 100th Anniversary Book this year and I’ll get it off from ebay.

Reply ↓

Yes, it is truly real that this organization is innocent and educational. It has all the col-lection of books and other works that are completely educational.

Reply ↓

You are ignorant of copyright laws. Your INTENT means nothing. When you steal copyrighted material and post it for free you are still stealing and violating copyright
even if your “intent” is not to… although i believe 100% you are lying about your “in-tent” anyway.

Archive.org has some really good cultural and historical content but it is NOT by any stretch of the imagination a “library.”

What “library” Let’s children view hardcore pornography and Muslim mullahs rant endlessly? What library allows obviously stolen content to sit for years on its shelves?

This isn’t a library. It’s a dumping ground for stolen content.

Reply ↓

And archives can be both. Which is what this is.

Reply ↓

You are a sheep, standing up for the Big guy, how brave you are

Reply ↓

David Lynch, stop Lynching what you do not understand.

Any attack against the Internet Archive is part of a larger coordinated plan to silence truth, particularly any knowledge that will inform a resistance to the Satanic New World Order that is growing in these coming years.

When America is destroyed in 2028, and the military boot crushes your balls, THEN you will understand. Not before.

The Internet Archive must never give in to any forms of censorship whatsoev-er. But if Internet Archive fails, as it has occasionally done in the past, then many others will continue its mission.

Truth will win on earth, one way or another. How much of it you can learn for yourself is in part the noble mission of web sites like Internet Archive.

You have no idea how valuable the content is on this web site, and the magni-tude of the forces that seek to destroy that content, so hold your tongue.

Reply ↓

I never thought I’d hear David advocate taking down the “really weird stuff” from the internets because it makes him uncomfortable. But here we are!

Reply ↓

> Archive.org has some really good cultural and historical content but it is NOT by any stretch of the imagination a “library.”

The state of California disagrees: https://old.post-gazette.- com/pg/07175/796164-96.stm

If you honestly believe with all your heart that the Internet Archive is not a li-
brary, lobby the California State Government to get its library status revoked.
Until then, it’s a library.

Reply ↓

Thanks, lads. Do what you can. There is a massive effort to archive as well. If it has to be de-centralized, then so be it, but we’d rather that not happen.

Reply ↓

That might be worse. Your only media would be stodgy, uncompetitive movies and the
black market. Could we stop the 2020s MTV or YouTube from showing ISIS recruiting videos?

Reply ↓

Just wow, has the judge know that some books in a physical library have licensed digital ver-sions as well? This means they are trying to retroactively apply licensing schemes to physical books just because those books have a licensed version.

They have forgotten one important aspect, licensing restrictions that override copyright’s limi-tation only happens to the person or organization if that entity have signed the binding agree-ment. You cannot apply such licensing restrictions that overrides fair use to any entity that didn’t agree to the binding agreement.

Reply ↓

If a person can’t afford a book then he have right to read it online what’s wrong with this. Knowledge is necessary for everyone.

Reply ↓

Slaves are not allowed to know, own, or say anything.

Reply ↓

If in the end you lose the war… have you everything from sites to software backed up? Please come back one day if you do end up losing. You’ve got to, for the sake of libraries and innocent people who care about the future.

Reply ↓

It was nice knowing you, IA. Time to shut down.

Welcome to the Age of our corporate overlords, where information is paywalled.

Reply ↓

One day, someone will look back on history and see is a black wall of nothing. for History has been erased by power-hungry old men and women.

Reply ↓

KEEP FIGHTING THE GOOD FIGHT!

Reply ↓

Thanks. for loud a free books about humanities.

Reply ↓

I hope they have a card up their sleeve in case injustice wins.

Reply ↓

What will happen to software, magazines and videos?

Reply ↓

I don’t think those will be affected unless IA get’s sued for a lot of money.

Reply ↓

“Judge John G. Koeltl decided that the Internet Archive had done nothing more than create “derivative works,” and so would have needed authorization from the books’ copyright holders — the publishers — before lending them out through its National Emergency Library pro-gram.”

They simply temporally remove the download limits of the books, retaining all other restric-tions like preventing patrons from re-distributing the books and having a time limit before they become inaccessible on the user’s device. This merely acts as a temporary access, even af-ter the NEL was shut down, users cannot keep it.

“there is nothing transformative about [Internet Archive’s] copying and unauthorized lend-ing,” and that copying these books doesn’t provide “criticism, commentary, or information about them.”

The CDL system MUST have a copy (you cannot digitally lend out a physical book without dig-itizing it) but distributes as if there aren’t any unauthorized copies. And libraries don’t have to have criticism, commentary, or information about them in order to lend them. When a physi-cal library obtains a book via buying them or via donations, they just register it to their system and have it on the bookshelf for anyone to read it, no changes to that book besides putting a due date of when to return.

“there was no direct evidence, and that it was “irrelevant” that the Internet Archive had pur-chased its own copies of the books before making copies for its online audience”

You cannot held the IA liable for simply running the CDL system and not having evidence of purchasing its own copies, they can obtain books via donations by other people. If whoever have stolen the book (shoplift, went to some shady site to obtain it illegally) prior to donating it to the IA, only that person should be held liable, the IA would be unaware of this person’s act. Furthermore, there must be proof that the IA knowingly and willfully obtain books from an illegal source, else this violates the Presumption of innocence, which implied via amend-ments Fifth, Sixth, and Fourteenth. See this:
https://en.wikipedia.org/wiki/Presumption_of_innocence

Reply ↓

Also, copyright law does not and should not automatically retroactively prohibit li-
braries from lending out physical books when those books have a licensed e-book ver-
sion, such restrictions only apply when the licensing schemes’ terms are agreed. If the library owns it, they own it, not somehow license it just because the ebook version lat-
er exists. The judge seems to forget the role of libraries that they obtain books and
lend them out doesn’t have any licensing scheme at all.

Reply ↓

The same should also apply to CDL. Don’t assume that “if it is digitized by the
publishers, then digitization by libraries too are licensed”.

Reply ↓

Pingback: New York federal judge shoots down online e-book lending | Courthouse News Service

It hurts authors by saying that unfair licensing models are the only way their books can be
read online.

Reply ↓

I rely on you literally *every day* since a while to research some old books that are way too ex-pensive to order and in 0 library around me. The closest public library with the book am read-ing now is in Spain. Another country entirely. I do not know what I’ll do without your website. This is legit making me sad.

Reply ↓

I think the Internet Archive should cut a deal with the publishers. As users, we pay a small subscription fee annually, and part of that revenue goes back to the publishers, so we can con-tinue to read their books.

Reply ↓

No thank you. You are not seeing the nefarious intention behind attacking the Internet Archive. You are excusing the wound because you are blind to the war at hand. Maybe
you should watch this video on the Internet Archive for a clue:

https://archive.org/details/jfk_secret_societies

Reply ↓

Soon this site will be completely destroyed and shut down.

Reply ↓

Time to wave the white flag.

Reply ↓

Nobody who cares about the Internet Archive should ever buy another book from Hatchette, ever. No matter what the title. Don’t feed the beast. You stopped buying CD’s 15 years ago to punish the RIAA for their failed filesharing lawsuits, not it’s time to stop buying Hatchette’s books. They’re only good for toilet paper anyway, and you can get that cheaper at the grocery

store

Reply ↓

HACHETTE BOOK GROUP, INC.,
HARPERCOLLINS PUBLISHERS LLC,
JOHN WILEY & SONS, INC., and
PENGUIN RANDOM HOUSE LLC

https://www.eff.org/document/hachette-v-internet-archive-internet-archives-reply-iso-summary-judgment

But even better, the authors who publish through those publishers are pissed off at the publishers and should cancel their contracts and use another publisher instead.

Stick it to them where it hurts: right in the greed they indecently publicly exposed to
the world.

Reply ↓

A sad day indeed

Reply ↓

Strange that the legal doctrine of standing isn’t addressed by this rogue New York judge at all. After all, it would be difficult for any court to find standing in the absence of actual damages. Folks, be very clear what this is about. It is about the publishing houses efforts to do with books what technology conglomerates have done with software, namely eliminate the idea of ownership. Most of you know none of us OWN our copy of Microsoft Windows. We license it. Publishers and corporate authors want this model for the books we buy, since that’s the busi-ness model that keeps on giving. First they came for our eBooks. Soon they’ll come for our print books, which they fancy to be little more than rentals. This system itself is lawless!

Reply ↓

I have benefited from the IA, but the truth is you have made unauthorized copies of copyright-ed works. While you may criticize the publishers, this is also an issue for writers. And writers are workers like everyone else. The law seems quite clear on the matter.

Why don’t you try to find a compromise with the publishers? There are libraries that require a library card for book lending. For example, I used to pay a monthly fee for the National Li-brary in Berlin.

You can just charge a fee for digital library cards and work out a financial deal with the pub-lishers, like a Netflix for books. I would rather pay a fee and support writers than stand on shaky legal and moral ground as is the case now. It’s better to settle with the publishers and find a workable solution that can resolve this issue, than to get the library shut down by a

court.

Reply ↓

But what about ancient old orphan works and those that are long out of print?

I would suspect that most of the IA lending business is in these texts. How do you
track down that ownership — if it still exists — and why aren’t THEY required to
protest? Why Hatchett?

Again, this is an issue for Congress. They need to modernize in some way the presently
held First Sale Doctrine. Which we should thank god exists, because this same crowd would already have closed down public libraries. Or made them pay a big license!

Reply ↓

because the mission is to make knowledge free which implies not settling on compro-mises like this. hopefully getting a library shut down will start a rebellion or get people to pirate and deprive publishers off their revenues. because authors get pennies for every dollar the publishers make.

Reply ↓

1. Writers do not benefit off of the licensing models as much as you may think. Often-times the publishers take a disproportionate amount of money and some writers may not even want their work published in that way. If you want to support writers as workers, it is detrimental to support the people they work under. The monthly fee you mentioned would not support the writers as much as you think.

2. libraries cannot be compared to streaming (referencing “Netflix for books” here) since they provide an important service to society beyond providing entertainment like Netflix does. They provide educational programs for children, refugees, senior citizens, and anyone else who might not have access to it otherwise, they offer a safe, warm space that is free to access even without money or paying for a library card, and so much more. Additionally, streaming services like Netflix exist to make money and al-ways seek to maximize profit whereas libraries simply exist to provide a service to the public, similar to how public transport is not profitable but improve their surround-ings nonetheless.

3. The law seems clear on the matter because corporations have a strong hand in the law due to lobbying. Copyright law favors corporations more than the creators them-selves.
I strongly recommend here to read up on the social construct of crime (here is a twitter thread that offers a simplified explanation: https://twitter.com/djmckenna00/sta-tus/1269218616861437952?s=20
but it is of course better to read up on the concept with peer-reviewed works so you can form an educated unbiased opinion, if you can afford to pay for the hefty fees the publishers ask for

4. If you live in Germany like me (I assume so since you paid for a library card in Berlin?) then you should have had the education to know that making books (and therefor education) inaccessible to the general public is dubious at best. We have the history to know what restricting information can do and we cannot make the mistake to put books behind walls again. It might be tempting to say “oh but you can still ac-cess them, you just have to pay”, but that bars a group of considerable size from ac-cessing basic education and the implications that has for our democracy are again, du-bious at best.

Reply ↓

You’re German, and you know better than most that a person negotiating with a Nazi
means there are two Nazis. The publishers’ interests isn’t remuneration; it’s destruc-
tion.

Reply ↓

A couple things. I know this is an issue for Congress, but what about the plight of orphan and out-of-print works that no publisher is EVER going to reissue? I would suspect that 95 percent + of these IA loans are such works.

Also, it sounds more like the judge was ruling against the Pandemic library that offered multi-ple uses of a work at one time. But only one now? How is that a big deal? And why aren’t the publishers required to prove harm?

I also agree with the claim that if these guys had their way now they’d be outlawing libraries as unfair “theft.” And getting away with it in the courts.

So what’s the future? Did the judge order a shutdown of the loan program?

Reply ↓

they aren’t required to prove harm because copyright law already protects them.

Reply ↓

Pingback: Links 25/03/2023: Decade of Docker, Azure Broken Again | Techrights

Decentralize it
Ask for community support for storage
I am willing to offer free storage for use and I am sure more people are in order to save this platform
They can not shut us all down

Reply ↓

Totally amused by the comments of these inexperienced, ignorant children who think they have a right to steal just because, well, we can’t let the corporate overlords win.

The corporate overlords have the law and ethics on their side. Sorry Internet Archive you can’t have a web site made up 95% stolen content and claim to be a legitimate library.

Many years I have gleaned great historical material from this site, but always knowing it’s a treasure trove of theft of copyright so won’t be around forever.

Reply ↓

There’s perhaps the “law” on their side, but ethics? Not so much. If you find the whole premise of IA so egregious, where are YOUR ethics in continuously taking advantage
of its content for “many years” while being personally convinced of its “theft of copy-
right” position even so? You regularly take advantage of the use of others “Ill gotten
gains” even though you personally know it to be illegal? Really? That puts your own
ethics into significant suspicion here. I am then given to assume you will immediately cease and desist of such continued illegal behavior, given your high price on other’s ethics.

Reply ↓

Stolen from whom? Un-traceable copyright holders from 70 years ago? That’s the stuff I borrow

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Kahle, Internet Archive

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Music
News
Newsletter
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Daniel Sauers
March 25, 2023 at 12:46 am

Ivan Henrick A De Pedro
March 25, 2023 at 5:03 am

David Lynch
March 25, 2023 at 1:16 pm

Hugh Janus
March 25, 2023 at 6:11 pm

TJ
March 25, 2023 at 6:28 pm

Galaxy Verse
March 25, 2023 at 7:01 pm

Jeffrey Beaumont
March 25, 2023 at 7:13 pm

Iron Curtain
March 25, 2023 at 7:24 pm

Captain A. W. Mann
March 25, 2023 at 12:59 am

Matthew Tymczyszyn
March 25, 2023 at 1:50 am

Adam
March 25, 2023 at 1:47 am

Aayu
March 25, 2023 at 2:01 am

Galaxy Verse
March 25, 2023 at 7:05 pm

Nathaniel
March 25, 2023 at 2:18 am

Joshua Taylor
March 25, 2023 at 2:56 am

Mr Dane
March 25, 2023 at 3:06 am

Tommy Mohandal
March 25, 2023 at 3:08 am

Jasim M. Abdulkarem
March 25, 2023 at 3:11 am

Jhon wang
March 25, 2023 at 3:55 am

anna soto
March 25, 2023 at 4:12 am

mohinathsivaneswaran@gmail.com
March 25, 2023 at 5:51 pm

Adam
March 25, 2023 at 4:17 am

Adam
March 25, 2023 at 5:44 pm

Adam
March 25, 2023 at 5:48 pm

RPLA
March 25, 2023 at 4:38 am

Worried peasant
March 25, 2023 at 4:40 am

Jim
March 25, 2023 at 4:56 am

Galaxy Verse
March 25, 2023 at 7:10 pm

King Reggin
March 25, 2023 at 7:11 am

AJT
March 25, 2023 at 7:37 am

Luke from DC
March 25, 2023 at 9:26 am

Galaxy Verse
March 25, 2023 at 8:00 pm

JJ
March 25, 2023 at 10:05 am

Quincy McGoo
March 25, 2023 at 12:07 pm

Aris
March 25, 2023 at 12:15 pm

Jim C
March 25, 2023 at 6:45 pm

x

March 25, 2023 at 7:17 pm

ena

March 25, 2023 at 7:19 pm

Iron Curtain
March 25, 2023 at 7:28 pm

Jim C.
March 25, 2023 at 12:45 pm

x

March 25, 2023 at 7:15 pm

X
March 25, 2023 at 1:26 pm

Intelics
March 25, 2023 at 1:29 pm

Jeweler's Granddaughter
March 25, 2023 at 2:41 pm

Jim C
March 25, 2023 at 6:50 pm

Is the public library down the street lending out purloined works too? Is the borrower stealing it?

By your logic, yes.

Reply ↓

**Iron Curtain**
March 25, 2023 at 7:31 pm

It's a library according to the state of California: https://cdd.post-gazette.com/pg/07175/796164-96.stm

If you don't think it's a library, take it up with Gavin Newsom.

Reply ↓

**Intelics**
March 25, 2023 at 1:35 pm

Guess you only publish comments that favor your side...

Reply ↓

**Paul Honold**
March 25, 2023 at 2:45 pm

I want to keep internet Archive alive

Reply ↓

**Mat**
March 25, 2023 at 2:54 pm

Do you suppose that EVERYTHING that belongs in the archive are going to be no more if this battle ends in possible "failure"?

Reply ↓

**Jim C.**
March 25, 2023 at 6:57 pm

Just the lending library, but yes, how much. Orphan works too?

The courts won't inevitably carve out an exemption for the un-traceable? Can they be legally encouraged to do so at this point?

Reply ↓

**Caroline "BrainSpyro" Metts**
March 25, 2023 at 2:58 pm

I stand up tight. I stand high for the childhood memories I keep discovering almost every day. Anything lost will be found right here right now, and will remain that way.

Reply ↓

**Lila**
March 25, 2023 at 3:17 pm

This decision affects readers worldwide, and shouldn't be up to one biased judge...who yet again takes the side of the "chosen" few, united by greed and desire to discriminate

I thank Internet Archive and its team for all the good work and services
GB

Reply ↓

**Sylvia**
March 25, 2023 at 3:19 pm

My friend is visually impaired and likes to read nonfiction. Not only does this site read aloud it also enables him to see high quality illustrations because he can zoom them. Regular ebooks do not compare to the scanned books available here. The search feature is AWESOME.

Reply ↓

**Jim C.**
March 25, 2023 at 7:54 pm

I believe that all the scanned works are available to the visually impaired. They can even be downloaded with specially obtained software — it's on the webpage for each search.

It's been that way for quite a while — those are not at issue now.

Reply ↓

**David Asleep**
March 25, 2023 at 3:48 pm

I write. I research heavily. Especially online. The half of it is having the Internet Archive. Without such a powerful free resource available I'm finished in many ways. Why? Because it's just too costly to travel the great distances required in physical world that allow access to the specialized books and media I need to complete my work. I think a lot of people like myself are in the same position. I truly believe that the Internet Archive is not only one of the last stands of free libraries. But a free Internet in particular. Meaning every online website visited could require a fee or costly charge. Or else you will be thrown (to the sharks) into a hellish world of non-stop ads and commercials.

Reply ↓

**David Hartley**
March 25, 2023 at 3:49 pm

I write. I research heavily. Especially online. The half of it is having the Internet Archive. Without such a powerful free resource available I'm finished in many ways. Why? Because it's just too costly to travel the great distances required in physical world that allow access to the specialized books and media I need to complete my work. I think a lot of people like myself are in the same position. I truly believe that the Internet Archive is not only one of the last stands of free libraries. But a free Internet in particular. Meaning every online website visited could require a fee or costly charge. Or else you will be thrown (to the sharks) into a hellish world of non-stop ads and commercials.

Reply ↓

**Crazy**
March 25, 2023 at 4:21 pm

Espero que Internet Archive se mantenga en funcionamiento y gane el caso judicial. Internet Archive tiene todo lo que es DIFÍCIL de encontrar donde otros sitios web no lo hacen. Apoyo Internet Archive y Open Library.

¡Bien!

Reply ↓

Pingback: Internet Archive violated publisher copyrights by lending ebooks, court rules | Engadget

**Andy**
March 25, 2023 at 5:09 pm

"They paved paradise and put up a parking lot / With a pink hotel, a boutique, and a swinging hot spot / Don't it always seem to go / That you don't know what you got 'til it's gone? / They paved paradise and put up a parking lot / They took all the trees and put 'em in a tree museum / And they charged the people a dollar and a half to see them..." -- Counting Crows

Reply ↓

**Andy**
March 25, 2023 at 5:15 pm

Sorry, those lyrics were from Joni Mitchell originally. Google pranked me by putting Counting Crows as the artist in the Knowledge Panel about the song when I googled the lyrics.

Reply ↓

**GPT-4**
March 25, 2023 at 5:34 pm

As an AI language model, I am not able to express an opinion on ongoing legal matters or litigation. However, the statement from the Internet Archive founder highlights the importance of libraries in society and their role in preserving and providing access to knowledge and cultural heritage. The Internet Archive and libraries across the US have been providing valuable services through controlled digital lending, allowing patrons to access books that may be out of print or otherwise unavailable, while limiting the number of digital copies that can be checked out at any one time to match the number of physical copies owned by the participating libraries.

The decision in the Hachette v. Internet Archive case raises important questions about the balance between copyright law and the public interest in accessing information and preserving cultural heritage. It remains to be seen how the case will be resolved, but it is a reminder of the challenges faced by libraries and cultural institutions in the digital age. The statement from the Internet Archive founder also highlights the importance of continuing to support libraries in their mission to serve their communities and provide access to knowledge and cultural heritage.

The Internet Archive is a crucial resource for preserving and providing access to digital history, promoting education and innovation, supporting a free and open internet, and providing resources for legal and policy debates. Its digital library helps to document the evolution of the internet and provides access to historical information that may have otherwise been lost. The Archive promotes lifelong learning and contributes to a more informed society. It fosters innovation and creativity by providing access to historical information, and it helps to prevent "digital decay" by preserving content for future generations. The Archive is also committed to promoting an open and accessible internet, and it has played a critical role in legal cases and policy debates. It is essential to continue supporting and preserving the Internet Archive for the benefit of future generations.

Reply ↓

**jaxon edwardson**
March 25, 2023 at 5:37 pm

im with you guys

Reply ↓

**mohinathsivaneswaran@gmail.com**
March 25, 2023 at 5:46 pm

I would just give up.

Reply ↓

**mohinathsivaneswaran@gmail.com**
March 25, 2023 at 5:49 pm

i hate life

Reply ↓

**Austin Buchanan**
March 25, 2023 at 6:47 pm

No need to give up the Internet Archive they will win this appeal.

Reply ↓

**Iron Curtain**
March 25, 2023 at 7:35 pm

I'm doubtful. The deck is stacked against the IA.

Reply ↓

**Jim C.**
March 25, 2023 at 6:54 pm

I'm curious about one thing here too.

One legal authority I read said that this only involves about 170 cited works, and that Hatchett would have a helluva time going after it all — that those would require separate actions, and so don't worry too much.

Is this true? What are the immediate plans of the IA here? Did the judge effectively shut the whole lending library down, so that on Monday it will all have disappeared?

Reply ↓

**Ender**
March 25, 2023 at 7:16 pm

How many books that are going to be removed from IA are we talking about?

Reply ↓

**Jim C.**
March 25, 2023 at 7:55 pm

I believe that all the scanned works are available to the visually impaired. They can even be downloaded with specially obtained software — it's on the webpage for each search.

It's been that way for quite a while — those are not at issue now.

Reply ↓

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